

**RSFA OUTREACH MEETING
CHRONIC ERRONEOUS REPORTING
MARCH 2, 1998**

Attendees

Louise Jones	MMS	Carla Wilson	IPAMS
Lydia Barder	MMS	Tammy Naron	Apache
Ken Wells	Texaco	Mike Perry	Burlington
Bill Strain	Chevron	Phil King	MMS
Mary Stonecipher	Amoco	Nick Fadely	MMS
Bill Stone	Exxon	Bill Douglas	MMS
Alycia Anderson	Apache	Helene Baker	MMS
Mary Williams	MMS		

INTRODUCTION

Mary Williams, MMS, provided the participants the minutes of the last outreach session, additional examples for the oil and gas rejected lines criteria, and the solid minerals criteria for the proposed "Chronic Erroneous Reporting Assessments" policy. She went through the package that was handed out at the January 27, 1998, session and explained how the current error rates are determined.

She explained the error rates do not reflect MMS's workload in the rejected line area, and the chronic assessment policy will be applied only for repetitive (chronic) errors. MMS is looking at the quality of the data and not just error rates. She explained the criteria as set out in the handouts has not changed since the last outreach session.

I. REJECTED LINE DISCUSSION

Mary reviewed the additional examples explaining how the chronic errors were identified and the percentages figured for the specific periods. She stressed that data base errors will not be considered, and the errors would have to be of a truly chronic (repetitive) nature to be considered for assessment. She explained the examples are very preliminary. There was discussion whether warning errors would be turned to fatal, and Mary assured the participants there would be sufficient notice if that should happen. The assessments will not be combined for payors and reporters for oil and gas but will be combined for solids.

Once a chronic erroneous reporting situation is identified, industry will be notified and MMS will then monitor to determine if the assessment is issued. The method of calculation was discussed. Mary explained each error message is considered a violation and would be assessed according to the criteria set out in the proposal. The error must be the same reporting error for 3 consecutive months.

Industry requested a listing of fatal errors. Mary explained that most companies have the information, and MMS would notify them of the errors first. She also stated MMS is looking at the quality of the data and important edits. MMS may not assess for all of the errors; just the ones creating the workloads.

Industry asked what the assessment would be for the fourth month. Mary explained it would stay the same as the initial assessment level or at least no higher, plus an additional amount if not resolved. Although MMS has not determined all the processes involved, the criteria is the basic premise for assessments.

Industry asked if once deemed “chronic” how long would they be considered “chronic?” Mary stated they would be “chronic” for a year from the time deemed “chronic.”

Mary stated the fees may change. MMS is still looking at what is reasonable.

The proposed rule is scheduled to be published March 1999. There will be a 60-day comment period before finalized.

Industry asked how adjustments are processed. Mary explained that production reports are updated by report month even if amended.

Industry asked how soon they would be notified because they may already have the next month’s reports prepared. Mary explained it will be similar to our current notification process, e.g., for rejected lines, you are notified by phone or fax now.

There was discussion concerning the notification time period. Industry asked MMS to consider changing the timeframe from 3 months to 4 months to allow time to correct the error. Mary stated MMS would notify industry before assessing. Industry stated it takes time to get another division of the company to get correction made. Industry suggested royalty be later than production. MMS will look at timeframes and whether the royalty timeframe is the processing month or sales month. The production timeframe is the report period.

Industry questioned the wording in the example for the assessment of rejected lines after the third month, the criteria states, “If in the next quarter you had a subsequent occurrence for the same error message you would receive an assessment of \$400 (\$300 + \$100).” The wording will be changed to “next month” to replace “next quarter.”

Industry expressed the need for the rule to be consistent for all reporters. Mary explained that is why MMS is still looking at the process to make sure it will be consistent.

The Notice of Noncompliance (NONC) process was discussed. Mary stated an NONC would only be issued for a truly non compliant reporters - not submitting reports consistently or timely.

The previous assessment policy was discussed, and Mary stated that is why MMS needs a policy to address the truly “chronic” erroneous reporters. There are currently approximately 30

chronic royalty reporters and 60 chronic production reporters.

RECAP: Timing - 3 vs. 4 month timeframe.

Verify processing month vs. sales month for royalty.

Will change wording from “quarter” to “month.”

When notification will occur.

II. FAILURE TO SUBMIT REPORTS OR CORRECT DATA; AND REPORTING EXCEPTIONS

A. Mary explained MMS would use the chronic assessment policy instead of the NONC process to get the required data necessary to clear rejected lines and missing data or reports. This would only be used in a truly “chronic” case of ignoring MMS’s notification for the data. There would always be notification to the reporters first.

B. This would only apply to the reporters that continue to chronically not include the 3A and payor code on their remittances. This would not overlap with the rejected line category. There would be only one assessment.

C. There was discussion on the wording of this criteria. Nick Fadely explained this is the exception level for majority pricing (non-indexed zone), not rejected lines. This is to get information needed to get majority pricing and to bill another company on major portion price. To enable MMS to bill correctly. This is different than the other criteria. He explained MMS is trying to get current for the month to compute non-indexed major portion calculations based on a unit price. MMS will work with industry to get the information.

Industry commented this would increase the burden on industry to have to prove to MMS or get fined and would make this comment during the comment period for the proposed rule. Nick explained assessments would only be for those that are totally wrong chronically. Industry commented quality measurement would not be a problem, but royalty value and quantity are subjective, so how would MMS assess? Nick said MMS would only look at highly suspect reporters and would give an opportunity to have input and correct if necessary. MMS cannot do analysis without the information.

There was further discussion concerning industry not being able to comply without a separate regulatory group being set up to comply. MMS explained they are looking at only current pricing and will work with on-site auditors. MMS explained the process would be to notify the first month and possibly assess on the third month. MMS would give industry the opportunity to provide the information first.

Industry stated MMS needs to look at the dollar amount and practicality of an assessment. MMS stated it will be looking at the higher volumes and value amount, but if it is a low volume and the data is chronically wrong then would assess for chronic misreporting.

It was decided that II.C will be reworded.

Mary explained this is only a summation. The rule will be worded different.

D. Mary reviewed the example of a “Bill for Collection” which shows the bill is for the same property for an incorrect royalty rate reported on a Federal lease. Industry questioned if the billing would be run monthly and Mary confirmed it would. Clarified that chronic would be based on 3 billing months - not sales months because a bill could have multiple sales months.

E. There was discussion on how volumes and sales reported are compared. Mary stressed MMS is looking for volumes to be reported right the first time. Lydia Barder explained how the assessments would be calculated under one or the other criteria and done manually. She also reviewed the Example 4A showing the timeframe for three occurrences of an error constitutes erroneous reporting in a 12-month period. She explained the three months would not necessarily be consecutive since “takes” can be for any 3 months within a 12-month timeframe. It would be property specific.

Industry questioned how the assessments would be levied if the operator is telling MMS who is responsible, but that party continues to misreport, would the operator be assessed? Lydia explained the responsible party would be assessed only after MMS has resolved who is actually responsible. She stated that MMS needs to be notified if someone else pays.

Industry questioned if MMS has calculated how much it will cost to do the assessments. Mary explained MMS is looking at getting compliance, not budget, but plans to do it with the existing staff.

Industry would like to provide MMS more examples for the rule because of changes in industry practices and regulations. Mary agreed MMS could use more information for mitigating circumstances. MMS wants to assess only for truly chronic situations.

Industry questioned why not just use the NONC and has MMS thought about the assessment may be more than the royalty actually due. Mary explained MMS is not looking at making money but only in getting compliance.

III. PROPOSED CHRONIC CRITERIA FOR UNDERPAYMENT OF ROYALTIES

Mary explained this section of the criteria applies to actual underpayment of royalties due to an incorrect report. MMS would be looking at continued misreporting that generates misreporting of royalties. Helene Baker explained the audit Example No. 5. Industry questioned if sections A. and B. are not the same criteria? MMS explained these are two separate divisions of MMS, but are not the same. Each division would use different criteria. All of II.C is for non-payment where no additional royalties are due. III. is strictly for underpayment of royalties where additional royalties are due. Industry would not be assessed for the same error from different divisions. After three separate notifications, would bill for underpayment (same issue/same property) if there are no mitigating circumstances.

Industry questioned if a notice was under appeal, would they still be assessed? Mary explained if the audit is in appeal, the appeal would be resolved first. Mary stated this applies to cases

where after the audit, the company is still underpaying royalties.

Helene explained the process once an audit determines an underpayment of royalties and how the letter process evolves. She stated a company would not be assessed unless truly chronic and has been notified. The daily assessment begins from the next audit review until it is corrected.

Industry stated if MMS is encouraging electronic reporting, but will be assessing daily, they can't do electronic daily. Mary explained MMS will give industry time to get corrected and in compliance before an assessment would be issued. A per day assessment would be evaluated along with the reporting cycle.

Attachment

1. Chronic Criteria

I. PROPOSED CHRONIC CRITERIA FOR REJECTED LINES

If: Seven percent of your rejected lines reject with the same reporting error for any 3 consecutive processing months (this is a violation).

Then:		You may receive an assessment based on the following table:	
Avg. number of rejected lines	Assessment amount for each violation:	If: You have a subsequent month that violates the chronic criteria for the same error within 12 months of the first violation	Then: You will receive the assessment plus an additional amount to obtain compliance
5-25	\$300		\$300 plus \$100
26-50	\$500		\$500 plus \$100
51-75	\$700		\$700 plus \$100
76-100	\$900		\$900 plus \$100
101 or greater	\$1100		\$1100 plus \$100

Example: Your total rejected lines for:

Month 1	=	100 and you fail to submit an adjustment reason code (ARC) on 7 or more of those lines (7%).
Month 2	=	150 and you fail to submit an ARC on 11 or more of these rejected lines (7.3%)
Month 3	=	75 and you fail to submit an ARC on 6 or more of these rejected lines (8%)

You would receive an assessment for \$900 (\$300 x 3 one for each violation) in Month 3. If in the next quarter you had a subsequent occurrence for the same error message you would receive an assessment of \$400 (\$300 + \$100).

If: You continue to report chronically in subsequent months

Then: You will receive a knowing and willful Notice of Noncompliance in accordance with 30 CFR 241.

**II. PROPOSED CHRONIC CRITERIA
FOR FAILURE TO SUBMIT REPORTS OR CORRECT DATA; AND
REPORTING EXCEPTIONS**

If:	
A. You fail to submit required reports or data necessary to process the reports after notification from MMS.	Required reports are: MMS-2014, 3160, 4025, 4054, 4058 and 4060.
B. You fail to submit your payor code and 3A number on your payment document after notification from MMS.	Payor code and 3A number are required in accordance with 30 CFR
C. You fail to properly report the correct royalty quantity, royalty value, or quality measurement on your Form MMS-2014 as identified by MMS for 3 consecutive sales months.	Necessary to accurately compute majority prices.
D. Your report generates the same exception on a property for 3 consecutive processing months.	Exceptions are when: - transportation or processing allowance exceeds the maximum limit - reporting results in the calculation of an improper royalty rate - reporting results in improper adjustments
E. Your report generates the same reporting exception on a property for any 3 AFS/PAAS comparison processing months in a 12-month timeframe.	Reports include Form MMS-2014, 3160, 4054, 4058 and 4060.
Then: You may receive the following assessment amount for each violation: \$300	

If: You have a subsequent month that violates the chronic criteria within 12 months of the first assessment
Then: You will receive an assessment plus an additional amount to obtain compliance: \$300 plus \$100

If: You continue to report chronically in subsequent months
--

Then: You will receive a knowing and willful Notice of Noncompliance in accordance with 30 CFR 241.

III. PROPOSED CHRONIC CRITERIA FOR UNDERPAYMENT OF ROYALTIES

IF your Form MMS-2014 reporting results in the chronic underpayment of royalties:

A. From the same AFS/PAAS exception generating on a property three or more times within 12 months.

B. From the same exception generating on a property for three or more consecutive months from an index zone based major portion calculation.

C. Found during an audit or review and you have not complied with MMS directives or orders to correct the chronic reporting violation by the next audit or review.

Then: You may receive an assessment based on the following:

If your underpayment is \$1,000 or less, your daily assessment is \$10 until the chronic reporting violation is corrected. Each additional underpayment of \$1,000 is subject to an additional \$10 per day assessment. The maximum daily assessment under this section is \$5,000 per day.

